



201001162

Office of the Clerk

June 9, 2010

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## Motion in Support of Fair Hiring

- \* We MOVE that the City Manager and Director of Human Resources finalize the three reforms to the Human Resources Policies and Procedures listed in the City Manager's March 24, 2010 memo to Council (City Council item #201000428).

~~We FURTHER MOVE that the City Manager and Human Resources Director complete this effort towards creating a fair hiring policy by making the following reforms to the Human Resources Department's Policies and Procedures:~~

- ~~1. Where state or federal law prohibits employees with certain criminal records in certain positions, the Job Announcement for those positions shall reference the specific relevant state or federal law and list the offenses that trigger the prohibition.~~
- ~~2. Whenever a criminal background check is the basis for denying employment, the applicant subject to the check shall receive a copy of all documents containing criminal record information that the Human Resources Department has considered in making its hiring decision. The applicant shall be given at least 10 business days to dispute or correct any mistakes found in the criminal record information only when the applicant is denied employment based on the information received from the criminal background check.~~
- ~~3. For any applicant that is not prohibited by state or federal law from working in a particular position: The Human Resources Department, in consultation with the city department where the applicant would be employed, shall consider the relevance of any criminal records found in the background check using the following factors:~~
  - ~~a. Whether the offense directly relates to the responsibilities of the applied-for position;~~
  - ~~b. The nature and severity of the offense;~~
  - ~~c. The age of the person at the time of the offense;~~
  - ~~d. How old the offense is;~~

\*Amended on the floor of Council 8/4/2010.

- e. How long the person has lived while not incarcerated or under correctional supervision without having any new convictions; and
  - f. Any documentation or testimony demonstrating the applicant's rehabilitation.
4. Any criminal-record information gathered for an applicant or employee shall be kept strictly confidential except as otherwise provided by law. It shall be available only to the director of the Human Resources Department or designee and the relevant hiring decision-maker from the city department where the applicant would be employed.

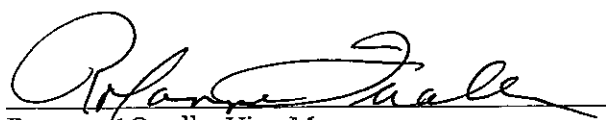
We FURTHER MOVE that the Director of Human Resources, as Secretary of the Civil Service Commission, take whatever steps are lawful to make similar reforms to the Civil Service Rules. We note that, although the March 24, 2010 memo (City Council item #201000428) suggested that the Civil Service Rules ALREADY WERE sufficiently flexible to allow for the hiring of people with criminal records, we are aware of at least one qualified applicant with old criminal records that seems to have been treated—using the *existing* Civil Service Rules—as though there were a blanket ban on hiring former felons. Therefore, the Director of Human Resources, as Secretary of the Civil Service Commission, shall submit the following rule changes for approval to the Civil Service Commission (proposed schedule attached), except for #1, 2 & 3 which will be included in the HRP & P:

1. Questions concerning prior convictions *will* be removed from the City's employment application. A statement on the application form will describe when criminal background checks are conducted.
2. Criminal background checks will be conducted only after a department has made a contingent offer of employment.
3. The responsibility for evaluating criminal background checks will be reviewed by individual departments and the Human Resources Department for final determination and lawful compliance.
4. Where state or federal law prohibits employees with certain criminal records in certain positions, the Job Announcement for those positions shall reference the specific relevant state or federal law and list the offenses that trigger the prohibition.
5. Whenever a criminal background check is the basis for denying employment the applicant subject to the check shall receive a copy of all documents containing criminal record information that the Human Resources Department has considered in making its hiring decision. The applicant shall be given at least 10 business days to dispute or correct any mistakes found in the criminal record information only when the applicant is denied employment based on the information received from the criminal background check.
6. *For any applicant that is not prohibited by state or federal law from working in a particular position:* The Human Resources Department, in consultation with the city department where the applicant would be employed, shall consider the

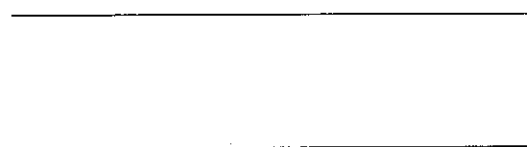
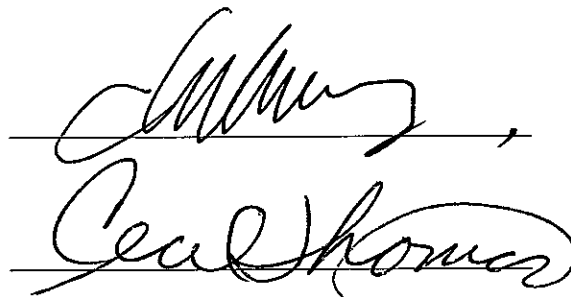
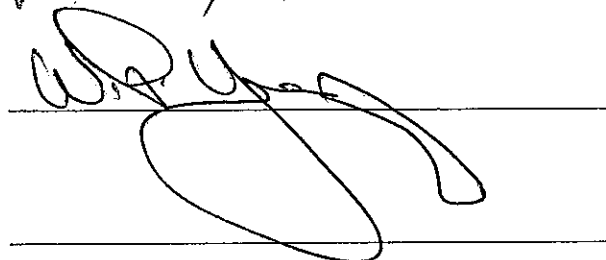
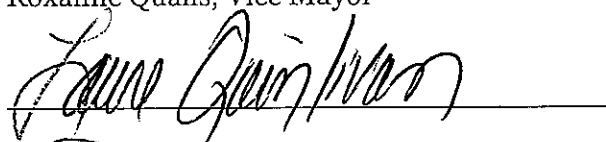
relevance of any criminal records found in the background check using the following factors:

- a. Whether the offense directly relates to the responsibilities of the applied-for position;
  - b. The nature and severity of the offense;
  - c. The age of the person at the time of the offense;
  - d. How old the offense is;
  - e. How long the person has lived while not incarcerated or under correctional supervision without having any new convictions; and
  - f. Any documentation or testimony demonstrating the applicant's rehabilitation.
7. Any criminal record information gathered for an applicant or employee shall be kept strictly confidential except as otherwise provided by law. It shall be available only to the director of the Human Resources Department or designee and the relevant hiring decision-maker from the city department where the applicant would be employed.
  8. If the applicant requests a hearing after being removed from the eligible list based on a criminal record, the commission shall consider all evidence and argument appropriately presented by the applicant including the enumerated factors (listed in #6, above). The applicant may request within a reasonable time frame, that the commission have the hearing transcribed.
  9. If the commission decides that the applicant is unfit for the position in question because of one or more criminal convictions, or if the applicant fails to appear for the hearing, the commission may remove the applicant from the eligible list. If the applicant is removed from the list after a hearing, the commission shall issue a written decision enumerating its consideration of all evidence and argument accepted into the record by the commission under each factor listed in #6, above.
  10. Appeal from the commission's decision to remove an applicant from an eligible list is governed by the Ohio Revised Code. Any documents or other evidence made part of the record by the commission shall be made part of the administrative record on appeal.

The Director of Human Resources shall propose these rule changes insofar as they are not inconsistent with state civil service law to which the city's Civil Service Commission rules must conform.



Roxanne Qualls, Vice Mayor



## Statement

To ensure that our city gets the best quality employees and is practicing good government, the gathering and consideration of criminal records in the city hiring process must be consistent, transparent, and fair. Under the current city practices, qualified applicants with old and irrelevant criminal records are sometimes unnecessarily rejected from city jobs. Instead, we must acknowledge and encourage the possibility of human redemption: there are people with mistakes in their past—even serious ones—who have done the hard work of turning their lives around and becoming productive, contributing members of our community. They should have an equal opportunity for city employment.

We note that people with criminal records tend to be concentrated in the lowest income neighborhoods of our city and have extremely limited opportunities to get jobs even if they have excellent educational and other credentials. Without meaningful employment, re-offending is likely. In addition, without the benefits that come with employment,

people with criminal records and their families are more likely to become a drain on public and non-profit social services. Whenever possible, the City should provide opportunities for qualified individuals to become gainfully employed, tax paying citizens, thereby alleviating stress on social systems.

Adopting a policy that gives otherwise qualified people a fair chance at employment can improve community safety. According to the National Employment Law Project, at least 15 other cities and counties throughout the United States have refined their hiring policies to allow for individualized consideration of qualified applicants with criminal records.

The Ohio Justice and Policy Center, the AMOS Project, and the Cincinnati Human Relations Commission have done extensive research on this issue and have assisted in the development of a new hiring policy for our city. By this Motion, the City of Cincinnati makes itself known as a leader in providing smart second chances to people who have turned away from a life of crime and who have productively engaged in the community. The City particularly hopes that its own leadership will be followed by private employers doing business in our area. The City alone cannot solve the unemployment crisis for people with criminal records.

Therefore, we commend the City Manager and Director of Human Resources for recently offering to make the following changes to the Human Resource Department's Policies & Procedures (see City Council item #201000428):

11. Questions concerning prior convictions will be removed from the City's employment application. A statement on the application form will describe when criminal background checks are conducted. This change will eliminate potential pre-employment bias against ex-offenders.
12. Criminal background checks will be conducted only after a department has determined that the applicant is qualified, and is prepared to make an offer of employment. This provision will ensure that ex-offenders are considered for employment like all other applicants.
13. The responsibility for evaluating criminal background checks will be reviewed by individual departments and the Human Resources Department for final determination and lawful compliance. This change will solidify consistency between departments in the application of the policy.